

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
AND THE BOARD OF ATHLETIC TRAINERS  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 24.101.413 renewal dates and	)	AND ADOPTION
requirements and adoption of NEW	)	
RULE I fees	)	

TO: All Concerned Persons

1. On June 12, 2008 the Board of Athletic Trainers (board) published MAR Notice No. 24-118-1 regarding the amendment and adoption of the above-stated rules, at page 1094 of the 2008 Montana Administrative Register, issue no. 11.

2. On July 2, 2008, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the July 10, 2008, deadline.

3. The board has thoroughly considered the comments and testimony received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: Several commenters stated that the proposed three-year licensure fee is excessively high and that many certified Athletic Trainers (ATCs) would be unable to keep their ATC status with the proposed fee. The commenters expressed concern that standard of care might decrease.

RESPONSE 1: All licensing boards are statutorily mandated by 37-1-134, MCA, to set board fees commensurate with the costs of licensing and regulating the members of the particular profession. The board cannot set fees according to inflation, cost of living, or the current salaries of the regulated licensees. Licensure fees are directly impacted by the number of licensees a board regulates; thus, boards with fewer licensees generally charge higher fees and boards with more licensees are able to charge lower licensure fees.

COMMENT 2: Several commenters compared the proposed license fees to that paid by other professionals in the state pointing out that other professionals pay a lower fee for licensure.

RESPONSE 2: See Response 1 above.

COMMENT 3: A number of commenters suggested that the three-year fee of \$750 be divided into three equal parts of \$250 each year.

RESPONSE 3: The board agrees with the comment but the current statutes do not allow this. The board is attempting to lessen the burden by setting the renewal

dates to not coincide with the national association's renewal dates. The board is seeking a statutory amendment at the 2009 Legislature to change the licensure period from three years to a one year license.

COMMENT 4: One commenter suggested moving the renewal date to June rather than August to allow at least six months between the license fees and the payment of a national association's dues.

RESPONSE 4: The board agrees that it would be ideal to have the dates for license renewal and the national association dues six months apart. However, due to the statutory time frame for administrative rulemaking, the board was unable to implement these rules by June of 2008. As well, the board must implement and fund the 2007 legislation now and is unable to wait until June of 2009 to collect licensure fees. The board concluded that setting the renewal date for August 31 allows the board to fund the regulation of athletic trainers while keeping several months' span between licensure fees and association dues.

COMMENT 5: One commenter stated that the cost of licensing athletic trainers working in the public sector would be passed on to the school employer but that privately employed trainers would have more difficulty paying the fee.

RESPONSE 5: See Response 1 above.

COMMENT 6: One commenter asked the purpose of the licensure fee, how the fee will benefit licensees and the profession, and whether the board would sponsor annual training, recertification, or board newsletters. The commenter also asked whether someone with a revoked or surrendered license would get a refund.

RESPONSE 6: Licensing boards are statutorily created and mandated to license and regulate members of a profession or occupation for the protection of the public. The main purpose of a professional association is to promote and advocate for a specific profession. The 2007 Montana Legislature determined that regulation of athletic trainers would be in the best interest of the Montana public and created the board to do so. As stated previously, the board is required by law to assess and collect fees to adequately fund the board and staff in this professional regulation.

In order to keep costs low, the board has no immediate plans to offer training, recertification, or newsletters but hopes to be able to do so in the future.

By administrative rule, fees are deemed earned upon receipt and are nonrefundable. License fees fund the ongoing function of the board and staff. By the time a license is revoked or surrendered, the staff has already performed the functions leading to the fees and no refund is available.

COMMENT 7: One commenter questioned what "original examination" and "license" meant in the fee schedule rule.

RESPONSE 7: The terms specify the fee for licensure by examination for athletic trainers. The board notes that there is no examination required except that of the board of certification.

COMMENT 8: One commenter asked what would happen if a person paid NATA dues and not Montana dues.

RESPONSE 8: The board is unsure of the commenter's question. The board has no jurisdiction over dues owed to private associations. If the commenter is referring to national dues and the board's licensing fees, the board notes that the two organization types perform different functions. A license fee will still be required to practice as an ATC in Montana regardless of whether or not a licensee pays an association fee.

COMMENT 9: One commenter asked if a person could still hold a national license if they did not pay the Montana license fee.

RESPONSE 9: The board is unsure of the commenter's question. A license fee is required to practice as an ATC in Montana and the board is not aware of a national license.

COMMENT 10: Several commenters asked if license fees would be higher if fewer people applied for or maintained their licensure than the estimated numbers.

RESPONSE 10: The department and all licensing boards continually review and evaluate board costs and establish a budget every biennium. Following this process, the board will be aware of changes in licensee numbers and associated board costs and will address any such changes through the budgetary process.

COMMENT 11: One commenter asked whether the suspected \$120,000 bank will support ATCs charging and billing for clinic time, when unsupported by PT's billing PT codes.

RESPONSE 11: The board is unsure of the commenter's question. The board has no jurisdiction over agencies billing for clinic time and cannot use any of its budget to subsidize or reimburse licensees for differences between what they bill and what is paid. The board notes that licensure of athletic trainers may result in coverage by insurance companies due to the validation as competent healthcare professionals.

COMMENT 12: Two commenters suggested the board reduce costs and licensure expenses.

RESPONSE 12: Several board members are ATCs who will be required to pay the same licensure fees and the board is very aware of the financial burden of the fees. The board also notes that both the department and the board continually seek and implement ways to reduce costs associated with board functions. Examples of this

are the recent shift to using electronic board books instead of paper ones and having some board meetings by telephone conference instead of in-person attendance.

COMMENT 13: A commenter asked if the proposed fee is a "start up fee" and whether it would go down in the future.

RESPONSE 13: The board notes that a certain amount of start-up shock exists for a new board without a financial track record. The proposed fee was based on an estimated fiscal note for a similarly-sized existing board with a similar number of licensees. It is a possibility that current budget issues may change over time and will be evaluated through the board's ongoing budgetary process.

COMMENT 14: One commenter notes the number of continuing education (CE) hours required by other professions and by the ATC national association.

RESPONSE 14: The board has no jurisdiction over the number of CE hours required by other organizations.

COMMENT 15: One commenter suggested the board raise funds in other ways.

RESPONSE 15: The board is statutorily mandated to set, collect, and use license fees to adequately cover associated board costs. State agencies such as licensing boards may not fundraise to cover costs.

COMMENT 16: One commenter asked if ATCs could be regulated under the Board of Medical Examiners.

RESPONSE 16: The board notes that any transfer of the licensure and regulation of athletic trainers would have to be done via statutory changes through the Legislature.

4. The department has amended ARM 24.101.413 exactly as proposed.
5. The board has adopted NEW RULE I (24.118.402) exactly as proposed.

BOARD OF ATHLETIC TRAINERS  
CHRIS HEARD, ATC, CHAIRPERSON

/s/ DARCEE L. MOE  
Darcee L. Moe  
Alternate Rule Reviewer

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 4, 2008